



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY DUGWAY PROVING GROUND
DUGWAY UT 84022-5000

April 25, 2013

REPLY TO
ATTENTION OF:

Office of the Command Judge Advocate

Mr. Michael Morisy
MuckRock News
Boston, MA 02205-5819

Re: Freedom of Information Act Request No: FA-13-0036

Dear Mr. Morisy:

We acknowledged receipt of your e-mail, dated April 7, 2013, received in this office on April 9, 2013, under the provisions of the Freedom of Information Act (FOIA), 5 USC 552; in which you requested, "A printout/listing of technical reports at DPG or West Desert Technical Information Center at Dugway Proving Ground that were dated/originated between 1961 and 1965, inclusive".

Additionally, in your request letter, you seek a waiver of fees. Pursuant to procedures established in 15 CFR, Part 4.11(k), we rely on the following factors in determining whether the statutory standard for granting a fee waiver has been met:

- 1) The subject of the requested records must concern identifiable operations or activities of the Federal Government.
- 2) The disclosable portions of the requested records must be meaningfully informative about Government operations or activities in order to be "likely to contribute" to and increase public understanding of those operations or activities.
- 3) The disclosure of the requested information must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.
- 4) The disclosure of the requested information is likely to contribute "significantly" to the public's understanding of Government operations or activities.
- 5) Whether the requester has a commercial interest that would be furthered by the requester.
- 6) Whether any identified commercial interest of the requester is sufficiently great, in comparison with the public interest in disclosure, such that the disclosure is not primarily in the commercial interest of the requester.

After reviewing your request we have determined that your fee waiver justification was insufficient in detail for the records listed above. This constitutes a denial of your fee waiver. You have the right to appeal this denial. Your appeal must be received within 30 calendar days

of the date of this letter by the Initial Denial Authority (IDA). The IDA can be reached at The Support Services Team/FOIA Officer, ATTN: Ms. Latricia Fortune, US Army Test and Evaluation Command Program Specialist, Office of the SGS, 2202 Aberdeen Blvd, 3rd floor, Aberdeen Proving Ground, MD 21005-5001 or (443) 861-9645 or latricia.c.fortune.civ@mail.mil.

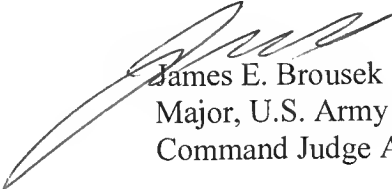
Your appeal must include a copy of the original request, the response to your request, and a statement of the reason why the denial of your fee waiver request was in error. **The submission of your appeal (including e-mail and fax submissions) is not complete without the required attachments.** The appeal letter, the envelope, the e-mail subject line, and the fax cover sheet should be clearly marked “**Freedom of Information Act Appeal.**”

Further, you state in your letter that “in the event the fees cannot be waived, I would be grateful if you informed me of the total charges in advance of fulfilling my request,” this statement does not convey a willingness to pay for your request in the event that there is a fee incurred. In order for this request to be considered a proper FOIA request you must state a willingness to pay.

Your request will not be processed further until we hear from you. If we do not hear from you within 30 calendar days from the date of this letter, we will assume you are no longer interested in the processing of your request, and we will close your request file.

If you have any questions regarding our response, please contact Tonya McGlon at (435) 831-3333 or email: mac.herring@us.army.mil.

Sincerely,



James E. Brousek
Major, U.S. Army
Command Judge Advocate